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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

New Caledonia

Working paper prepared by the Secretariat

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Note: The information contained in the present paper has been derived from public sources, including those of the territorial Government; and from information transmitted on 11 January 2013 to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations. Further details are contained in previous working papers available from: www.un.org/en/decolonization/workingpapers.shtml.

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The Territory at a glance

Territory: New Caledonia is a Non-Self-Governing Territory under the Charter of the United Nations. It is administered by France.

Representative of administering Power: Jean-Jacques Brot, French High Commissioner (since 27 February 2013).

Geography: Located in the Pacific Ocean, about 1,500 km east of Australia and 1,700 km north of New Zealand. It comprises one large island, known as Grande Terre, and smaller islands known as the Loyalty Islands, the Bélep Archipelago, the Isle of Pines and the Huon Islands. There are also several uninhabited islands to the north of the Loyalty Islands.

Land area: 18,575 km² (the Territory as a whole); 16,750 km² (Grande Terre).

Exclusive economic zone: 1,422,543 km².[a]

Population: 252,000 (2012).

Ethnic composition: 40.3 per cent Melanesians, mainly Kanaks; 29.2 per cent persons of European orig..., mainly French; 8.7 per cent Wallisians; 2 per cent Tahitians; 2.6 per cent Indonesians and Vietnamese; and 2.7 per cent populations classified by the French National Institute of Statistics and Economic Studies as "others".

Languages: The official language is French. About 27 Kanak vernacular languages are spoken in geographically distinct regions.

Capital: Nouméa, located in the south of Grande Terre.

Head of territorial Government: Harold Martin (since June 2011).

Main political parties: The anti-independence parties are Rassemblement-Union pour un mouvement populaire (Rassemblement-UMP); Calédonie ensemble; L'avenir ensemble; and Rassemblement pour la Calédonie. The pro-independence parties are Front de libération nationale kanak et socialiste (FLNKS); Parti travailliste; Union Calédonienne; and Union nationale pour l'indépendance-Front de libération nationale kanak et socialiste (UNI-FLNKS).

Elections: The most recent elections were held in 2012.

Legislature: Congress of New Caledonia.

Gross domestic product (GDP) per capita: $37,124.

Unemployment rate: 14 per cent (total unemployed as a percentage of the workforce in 2011).

Economy: Mining industry (notably nickel), construction and tourism.

Monetary unit: CFP franc.

Brief history: In 1774, the British captain James Cook discovered Grande Terre and named it "New Caledonia". France annexed New Caledonia on 24 September 1853. In 1942, the United States of America chose New Caledonia for its military base in the Pacific. Some 20,000 New Zealand soldiers were stationed in New Caledonia during the Second World War. In 1946, France made New Caledonia an overseas Territory with limited autonomy. In the 1970s, supporters of independence were highly active, leading to violence during the 1980s known as the "événements" (events). In 1988, the Matignon Accords led to the establishment of three provinces with the aim of restoring the balance of power. Some 10 years later, in 1998, the Nouméa Accord planned for the progressive autonomy of the Territory. A referendum will be conducted between 2014 and 2018 to decide whether New Caledonia should assume full sovereignty and independence.

[a] Exclusive economic zone data from the "Sea around Us" project", a collaboration between the University of British Columbia and the Pew Environment Group (see www.seaaroundus.org).

I. Constitutional, political and legal issues

1. The Kanak independence movement was launched in the 1970s in response to the process of decolonization in Africa and increasing French migratory flows. In 1984, the Front de libération nationale kanak et socialiste (FLNKS) was founded as an umbrella organization for the pro-independence parties, and later that year it established a provisional independent Government. Between 1984 and 1988, about 80 people died in violent confrontations between pro-independentists and loyalists. The violence was eventually halted with the conclusion of the Matignon Accords on 26 June 1988 between FLNKS, the loyalist Rassemblement pour la Calédonie dans la République (RPCR) and the Government of France.

2. The Matignon Accords provided for greater local autonomy and substantial aid designed to redress deep inequalities between the French and Kanak communities, while committing the Territory to a self-determination referendum 10 years later. In 1998, the three Matignon Accords partners agreed on a new statute defining the Territory's institutions and its relations with France. The agreement, termed the "Nouméa Accord", steered a middle course between the respective political aspirations of RPCR and FLNKS and avoided the need for a divisive referendum on independence. It was signed on 5 May 1998 and approved by 72 per cent of New Caledonians in a referendum held on 8 November 1998. The Accord was subsequently ratified by the National Assembly and the Senate of France. New Caledonia is now defined as "a French overseas sui generis community" within the French Constitution and has enhanced autonomy.

3. Section 1.5 of the Nouméa Accord provides that: "The identifying signs of the country, such as its name, flag, anthem, motto and banknote designs, shall be jointly devised in order to express both the Kanak identity and the future to be shared by all." On 18 August 2010, the Congress of New Caledonia approved three out of five identifying signs around which New Caledonia could unite — an anthem, a motto and banknote designs — but failed to agree on a name and a flag. On 13 July 2010, the Congress of New Caledonia expressed the wish that the Kanak flag and the French flag should fly together in New Caledonia. This wish has no binding legal force; each local authority remains free to apply it or not. On 17 July 2010, the Prime Minister François Fillon, on an official visit to the islands, raised the Kanak flag and the French flag together for the first time at the headquarters of the High Commissioner of the Republic, in the presence of local authorities.

4. The Nouméa Accord commits France to transferring responsibility over areas of government, except sovereign powers, to the Government of New Caledonia between 1998 and 2018. At some point between 2014 and 2018 a referendum is to be held on the basic issues: the transfer of sovereign powers; access to an international status of full responsibility; and the organization of citizenship by nationality. The exact date of the referendum will be determined by a majority of three fifths of the members of the Congress of New Caledonia. Should the outcome of the first referendum be negative, one third of the members of the Congress may call for the holding of two more referendums. If the response from all of them is negative, the parties to the Accord will meet to consider the situation thus created. The full text of the Nouméa Accord is contained in the 1998 working paper (A/AC.109/2114, annex).

5. The first stage of the period for review of the special electoral roll, which ran from 1 to 8 March 2013, was officially launched on 28 February 2013. After the filing of applications for administrative review and their consideration by the commissions between 11 and 21 March, provisional lists will be drawn up and applications for judicial review will be filed and considered by the Nouméa court of first instance between 25 March and 11 April. The final special electoral roll, which constitutes the special electorate of New Caledonia until the next review, is expected to be posted on 17 April.

6. In his political statement at the tenth meeting of the Committee of Signatories, in 2012, which was distributed to the members of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (Special Committee) on 13 February 2013, Mr. Roch Wamytan, First Vice-President of the Congress of New Caledonia and a signatory of the Nouméa Accord, stated that the question of the right to vote in provincial elections and the final referendum should not be subject to any ambiguity. Hundreds of Kanak electors were on the annex list, while attempts were being made to include non-citizens on the special electoral roll. A partial reform was absolutely necessary, mandatory and urgent with regard to the electoral roll for the provincial elections, as well as for the establishment of the electoral roll relating to the final referendum. He reaffirmed the "right to be supported on the journey towards emancipation" and the legitimacy of the Kanak people to exercise its right to self-determination, stressing that it was the historical responsibility of the State, which must not fail in its task of decolonizing New Caledonia, since the State was not an arbiter but a party to the Nouméa Accord. He underscored that it was a highly political issue and that the Kanak people would no longer accept a process turning them into more and more of a minority in their own country; they would not remain indifferent to the planned elimination of their ability to exercise their right to self-determination as a result of an intentional policy of immigration by French nationals. Similarly, the technical committee that met the day following the Committee of Signatories, on 7 December 2012, addressed the issue of registration on the special electoral roll for the 1,870 Kanaks placed on the annex list by decision of the electoral roll review commissions and proposed that the entity already working on this issue should be strengthened. April 2013 was set as the deadline for resolving this sensitive issue. Furthermore, in a letter addressed to the French Prime Minister and circulated to the members of the Special Committee on 13 February 2013, the First Vice-President noted that major political difficulties were emerging and that the Nouméa Accord was "again being disputed, with regard to both its spirit and its letter, to the point of calling into question its decolonizing aspect".

7. New Caledonia has a 54-member territorial Congress, comprising the combined elected membership of the three provincial assemblies (15 from the North Province, 32 from the South Province and 7 from the Loyalty Islands Province).

8. The Government of New Caledonia represents the executive power of New Caledonia and is headed by a president, who is elected by Congress and answerable to it. The Nouméa Accord stipulates that the Government, as a collegial body, must proportionally reflect party representation in Congress. The President is elected by a majority vote of all members of Government.

9. In accordance with the Nouméa Accord, a parallel set of institutions was established to accommodate full political recognition of the Kanak identity. There are eight customary councils representing eight customary regions. In addition, a Territory-wide customary senate with a rotating presidency comprises 16 members, 2 selected by each customary council. The customary senate and councils are to be consulted by the executive and legislative bodies of New Caledonia on matters related directly to the Kanak identity. These bodies have no budget, however.

10. Political parties in New Caledonia are divided between those favouring New Caledonia remaining part of France and those favouring independence, with varying nuances between the two. The 2009 election resulted in a Congress of 31 anti-independence and 23 pro-independence members. The anti-independence parties currently represented in Congress are Rassemblement-Union pour un mouvement populaire (Rassemblement-UMP), with 13 seats; Calédonie ensemble, with 10 seats; L'avenir ensemble, with 6 seats; and Rassemblement pour la Calédonie, with 2 seats. The pro-independence parties of the legislature comprise Union nationale pour l'indépendance (including Parti de libération kanak), with 6 seats, FLNKS/Union calédonienne, with 12 seats, Parti travailliste with 4 seats, and Libération kanak et socialiste, with 1 seat. Gérard Poadja (Calédonie ensemble) was elected President of the Congress on 29 August 2012, succeeding Mr. Wamytan, the first pro-independence leader to occupy that post.

11. The twelfth Government drawn from Congress on a proportional basis has 11 members, comprising 7 members from the anti-independence parties (Calédonie ensemble, Rassemblement-UMP and L'avenir ensemble) and 4 pro-independence members from Union Calédonienne, Parti de libération kanak, Parti travailliste and Union nationale pour l'indépendance (including Parti de liberation kanak). Harold Martin (L'avenir ensemble) was elected President and Gilbert Tyuienon (FLNKS-Union calédonienne) Vice-President.

12. New Caledonians also vote in the French presidential elections and elect two members of the French Senate and two members of the French National Assembly. The 2012 legislative elections weakened Rassemblement-UMP, the historical anti-independence party, which lost its two National Assembly seats to Calédonie ensemble, causing a split among the anti-independence parties and within Rassemblement-UMP itself.

13. Responsibility for New Caledonia lies with the French Minister for Overseas Territories, Victorin Lurel. The administering Power is represented in the Territory by a High Commissioner. This position is currently held by Jean-Jacques Brot. Under the Organic Law of 19 March 1999 concerning New Caledonia, France has powers over areas prescribed by law, including external relations, immigration and aliens, currency, the Treasury, trade, defence, justice, the civil service and maintenance of law and order. In the area of defence, the High Commissioner performs functions prescribed by the relevant legislation. The High Commissioner may declare a state of emergency as provided for under the relevant legislation; he or she shall refer the matter to the Minister for Overseas Territories after informing the Government of New Caledonia. Under the territorial structure, the Office of the High Commissioner in the Territory is the seat of the defence sector of New Caledonia. Some 3,000 French military personnel, including the gendarmerie, are stationed in the Territory.

14. The Territory's legal system is based on the French model, augmented by mandatory consultation with the consultative customary council. Magistrates preside over the decentralized lower courts. The Court of Appeal is located in Nouméa, and there is access to the Court of Cassation in France in certain matters.

II. Budget

15. According to the administering Power, on 15 November 2012 the Government adopted a budget for the fiscal year 2013, amounting to 209 billion CFP francs. This represents an 11 per cent increase compared to the previous budget, in part as a result of a 4.6 per cent increase in expected tax revenue. The budget includes the implementation of important projects such as supporting the transfer of powers as stipulated in the Nouméa Accord, modernizing the Territory's economy, stimulating employment and supporting the economy through investment.

III. Economic conditions

A. General

16. New Caledonia has one of the largest economies of the Pacific islands, with a gross domestic product (GDP) per capita estimated at $37,124 in 2009, higher than that of New Zealand, according to the United Nations Statistics Division. This is largely attributed to the preponderance of nickel mining and processing in the island's economy. Nickel production accounts for 95 per cent of total export earnings. There are significant geographic disparities in income distribution, however, as the South Province accounts for 85 per cent of household income, the North Province for 11.1 per cent and the Loyalty Islands Province for only 3.9 per cent. The economy is also highly dependent on payments from the French Government. Approximately 80 per cent of those payments are spent on health, education and civil service salaries, with most of the remainder allocated for development schemes, mainly in the North and Loyalty Islands provinces. The Territory runs a significant trade deficit caused by the increased value of imports.

B. Mineral resources

17. New Caledonia is the world's third largest producer of nickel after the Russian Federation and Canada, with an estimated one quarter of the world's nickel reserves. Chrome and cobalt are also mined commercially, and deposits of iron, copper and gold have been found. New Caledonia is unique in being a South Pacific economy predominantly based on mining. Sophisticated domestic industries and services support the mining sector, thereby providing some employment opportunities.

C. Construction and manufacturing

18. The construction sector, which accounts for roughly 12 per cent of GDP, employs about 9 per cent of the salaried population. Construction projects in the

mining industry continue to provide a platform for growth. There is still a need for approximately 1,000 new homes per year throughout the Territory.

19. The manufacturing sector, which is largely focused on the processing of foodstuffs, textiles and plastics, accounts for approximately 13 per cent of GDP.

D. Agriculture and fishing

20. Agriculture officially employs 2 per cent of the population and represents 1.5 per cent of GDP, although it forms the basis of much of the indigenous population's subsistence economy. The raising of beef cattle on the west coast (mostly by farmers of European descent), pig farming and the export of venison to Europe are the most important cash-producing agricultural activities. Tuna fishing and shrimp farming also contribute to export earnings. Agricultural production in most areas is heavily subsidized and prices are controlled. Agricultural output is hampered by labour diversion to the more lucrative mining industry and climatic factors. As a result, there is a heavy reliance on imports to meet demand.

E. Transport and communications

21. The Territory has a good road system in and around Nouméa. The road infrastructure in the rest of the Territory is more basic, but continues to improve. New Caledonia has around 5,000 km of roads, of which about half are surfaced. Overseas shipping is predominantly through Nouméa. There are passenger and cargo services and a harbour for yachts and other leisure watercraft. The Territory relies heavily on air transport for both international and internal movement of passengers and freight. Frequent international services link Nouméa's airport, La Tontouta, with neighbouring countries and with Japan, the United States of America and Europe. There are regular services from the domestic airport, Magenta, to the outer islands and major towns on the main island. According to the administering Power, the second phase of the airport renovations (at a cost of 80 million euros) should end in the first quarter of 2013.

22. Postal services and telecommunications are run by the State company Office des Postes et Télécommunications. A submarine cable network connection between the Territory and Australia, brought into service in 2008, has significantly increased the Territory's network capacity. Internet facilities and usage have grown rapidly in recent years but, as in other areas, statistics are lacking. Mobile telephone subscriptions are on the rise, but coverage continues to stand at less than 50 per cent of the Territory, and is largely concentrated in the coastal areas.

F. Tourism and environment

23. Tourism accounts for approximately 3 per cent of GDP. Despite economic stagnation, the sector is developing, largely owing to local customers. Cruise ship passengers are three times more numerous than in 2005 (over 230,000 visited New Caledonia in 2011).

24. New Caledonia has an extremely rich biodiversity and possesses the second largest coral reef in the world after Australia. Its lagoon has been declared a United

Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site. A report released by Conservation International in February 2011 expressed concern over the negative impact of nickel mining and deforestation on the unique flora and fauna of New Caledonia. The Territory is ranked second among the world's 10 most threatened forest hotspots. Only 5 per cent of the original forest landscape remains intact.

25. Deforestation threatens many endemic species, including various plants and birds. The kagu (*Rhynochetos jubatus*) is the only surviving member of the bird family Rhynochetidae, and probably the most well known of the Territory's native birds. The islands are also home to one of the world's largest geckos, the New Caledonian giant gecko (*Rhacodactylus leachianus*).

IV. Social conditions

A. General

26. United Nations Development Programme data for New Caledonia show that the Territory has a high human development index. The adult literacy rate is over 96 per cent and school enrolment (all levels) is about 89 per cent. Nevertheless, according to the French National Institute of Statistics and Economic Studies, the Territory suffers from some inequality and imbalances. These imbalances are demographic in nature, as 71 per cent of the population is concentrated in the South Province. Including the suburbs of Nouméa, the Greater Nouméa metropolitan area is home to 63 per cent of the population. The population density in the South Province is 23.4 inhabitants per km^2 (999.7 inhabitants per km^2 in Nouméa), compared to only 4.6 inhabitants per km^2 in the North Province and 11.1 inhabitants per km^2 in the Loyalty Islands Province.

27. These imbalances are also social, as shown by the fact that 66 per cent of the population aged 14 years and over living in the North and Loyalty Islands provinces has no professional qualifications, compared to 35 per cent in the South Province. Lastly, there are economic imbalances. As described in paragraph 16 above, household income varies significantly by province. The Gini coefficient, which measures income inequality, is 0.5.

B. Employment

28. In the first quarter of 2012, the number of New Caledonians seeking employment fell to 7,218, an improvement compared with the figure of 7,560 at the end of the first quarter of 2011. Regional disparities are also clearly evident in the labour market, with the number of unemployed particularly high in the North Province. Since the Koniambo Nickel SAS (KNS) plant in the North Province gradually began operations in 2012, it has generated some 8,000 new jobs, directly and indirectly, many of them for the local population. The Government of New Caledonia has indicated that it has no statistics confirming high levels of unemployment among Kanaks. Country law (*loi du pays*) No. 2012-9, of 27 July 2010, on the protection and promotion of and support for local employment came fully into force with the appointment of the members of the Joint Local Employment Board (CPEL) at the beginning of February 2012. The law stipulates that, as a rule,

New Caledonian citizens shall be hired. If no citizen is as well qualified as other applicants, the employer must recruit a candidate who can demonstrate a sufficient length of residency.

29. Kanak representatives continue to express concern over the influx of labour immigration to New Caledonia. The Government of New Caledonia has acknowledged this fact, while specifying that the immigration included highly qualified labour, as well as technicians and managers not available in the domestic labour force. Furthermore, the duration of stay was limited to 18 months for the first category and to four years for the second category. According to the Government of New Caledonia, three quarters of the guest labour force of the nickel plant in the South Province has already left the Territory. The Government plans to provide vocational training for New Caledonians with the aim of allowing them to occupy 95 per cent of jobs created in the metallurgical industry in the future.

C. Education

30. The Organic Law of 19 March 1999 transferred control of public primary education to the New Caledonian authorities, giving them the right to adapt the curriculum to local cultural and linguistic backgrounds, including instruction in the Kanak languages. Five agreements were signed in October 2011 between the administering Power and the Government of New Caledonia to organize the transfer of secondary education to the Territory, with the transfer officially taking place on 1 January 2012.

31. Several research institutes, based mainly in Nouméa, are concentrating on studies on biodiversity, environment, biology and geology, nickel, oceanography, history, anthropology, sociology and linguistics of the Kanak languages.

D. Health care

32. In 2010, life expectancy at birth was 74.4 years for males and 80.7 years for females. According to the World Health Organization country health information profile, New Caledonia has a well-functioning mother and child health programme. Communicable diseases remain a public health problem and sexually transmitted infections are highly prevalent. Non-communicable diseases constitute a major burden, with cardiovascular diseases, diabetes mellitus and cancers the most common.

33. At the territorial level, there are three public hospitals (492 beds), three private clinics (178 beds) and four specialized hospitals (184 beds) in Nouméa. According to the administering Power, construction began in 2011 on a new hospital close to Nouméa, following approval by the Congress of New Caledonia of a $530 million project expected to take four years. At the provincial level, integrated public health-care services are provided through seven medical social centres, with 42 hospital beds, 19 medical centres, 14 infirmaries, 55 consultation facilities and 22 dental care stations.

V. Relations with international organizations and partners

34. The Organic Law of 19 March 1999 governs the legal framework within which New Caledonia may establish external relations.

35. New Caledonia has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1992. In 2006, it became an associate member of the Pacific Islands Forum, having been an observer since 1999. In September 2011, the President of the Government of New Caledonia reiterated the Territory's desire to accede to full membership of the organization. An evaluation visit is due to be conducted by the Forum's Ministerial Committee in 2013.

36. The second Melanesian Spearhead Group high-level ministerial mission was conducted from 13 to 18 August 2012 as part of the annual monitoring and assessment of the Nouméa Accord. The mission met with Government authorities in New Caledonia, including the French High Commissioner, the Government and Congress of New Caledonia, and other institutions such as the customary senate, the economic and social council of New Caledonia, customary chiefs and the provincial assemblies of the Loyalty Islands Province, North Province and South Province. The mission noted that five powers were to be transferred under the Nouméa Accord and that there was a need for greater awareness of the process leading up to the 2014-2018 referendum, as well as clear guidelines for that process. The mission also noted that the role of the Special Committee was not fully understood in the Territory.

37. A Front de libération nationale kanak socialiste (FLNKS) unit was officially opened at the headquarters of the Melanesian Spearhead Group secretariat in Port Vila, Vanuatu, in February 2013. The unit will provide strategic advice on political developments in New Caledonia, oversee implementation of the Nouméa Accord, maintain contact with the FLNKS political bureau on Melanesian Spearhead Group issues, coordinate and manage meetings of Melanesian Spearhead Group bodies on matters relating to FLNKS and manage the high-level technical and ministerial missions conducted in New Caledonia, among other tasks.

38. New Caledonia is a member of the Pacific Community, the Pacific's oldest regional organization, whose secretariat is headquartered in Nouméa. Among other Pacific regional arrangements in which New Caledonia is involved are the South Pacific Regional Environment Programme, the Pacific Islands Development Programme, the Pacific Islands Association of Non-governmental Organizations, the South Pacific Tourism Organization, the Pacific Power Association, the Pacific Islands Applied Geoscience Commission and the Pacific Community Coastal Fisheries Programme. In 2012, the twenty-third Conference of the parties to the South Pacific Regional Environment Programme was held in Nouméa in 2012 under the chairmanship of New Caledonia.

39. New Caledonia has continued to strengthen its ties with the European Union, within which it holds the status of associated territory as conferred by the Treaty of Rome. It receives development aid from the European Union in the framework of the tenth European Development Fund for the Overseas Countries and Territories, which covers the period 2008-2013. The President of the Government of New Caledonia participated in the eleventh European Union-Overseas Countries and Territories Forum held in Ilulissat, Greenland (an overseas territory maintaining special ties with Denmark) on 26-27 September 2012 in the context of the

negotiations on the legislative proposal for an Overseas Association Decision for the period 2014-2020. The President drew attention to three points of particular interest concerning provisions that could be improved: (a) with a view to strengthening the regional integration of the overseas countries and territories, he emphasized that the European Commission should provide for innovative, flexible measures in the framework of the eleventh European Development Fund to enable the overseas countries and territories to finally implement regional projects with neighbouring States; (b) on governance and dialogue, he expressed the Government's grave concern over the closure of the Nouméa office envisaged by the European External Action Service and called on the European Commission to find a solution to maintain its presence in New Caledonia and manage the affairs of overseas countries and territories directly with its Directorate-General for Development and Cooperation (EuropeAid) in Brussels; and (c) he emphasized the unresolved issue of access by overseas countries and territories to European Union programmes and other external aid instruments. These programmes, which include the LIFE funding instrument for the environment and the Horizon 2020 framework programme for research and innovation, are important for overseas countries and territories because the limited resources available under the European Development Fund, unlike the structural funds for the outermost regions, do not allow the development of projects with a broad scope.

40. In January 2012, the Minister for Cooperation, the Minister for Overseas Territories and the President of the Government of New Caledonia signed a convention related to the hosting of New Caledonian delegates in the French diplomatic and consular missions in the Pacific. This convention is part of the implementation of the Nouméa Accord and the Organic Law of 19 March 1999 regarding the possibility of New Caledonia having representation in countries of the Pacific region. The first delegate for New Caledonia, accommodated within the French Embassy in New Zealand, was appointed on 27 April 2012.

VI. Future status of the Territory

A. Position of the Government of New Caledonia

41. Developments regarding discussions on the future status of New Caledonia are reflected in sections I and VII.B of the present working paper.

B. Position of the administering Power

42. The tenth meeting of the Committee of Signatories, held in Paris on 6 December 2012, gave the State's highest authorities, the President of the Republic, the Prime Minister and the Minister for Overseas Territories, an opportunity to reiterate their firm commitment to full observance of the Nouméa Accord and pledge that France would pursue the process launched in a spirit of strict impartiality. The full statement of conclusions is included as an annex to this report. Addressing the meeting participants, the French President set out the main items on the agenda, in particular the high cost of living, the transfer of remaining powers, ways to overcome persistent inequalities in the Territory, the future of the nickel industry and the review of the work of the steering committee on the institutional

future of New Caledonia. He emphasized that much concrete, technical and day-to-day work needed to be done before the deadlines set by the Accord, during what was a decisive period for New Caledonia. He also said that the Accord had provided for a choice to be offered between full sovereignty and remaining part of the French Republic but there was nothing to prevent that choice from being made clear to voters through the provision of information about how the two options would take shape.

43. The Prime Minister, Jean-Marc Ayrault, recalled that the Nouméa Accord constituted "full recognition of the Kanak identity and decolonization as both prerequisites and means, [...] recognition of the legitimacy of all communities that had participated in the development of New Caledonia, [...] sovereignty shared with France, and the path to full sovereignty if New Caledonians chose that option". With regard to the transfer of powers, the Prime Minister also emphasized that the Government would provide genuine support; it would not simply abandon New Caledonia or turn its back on it. Country laws had provided for the transfer of civil law, commercial law and civil defence by 2014, with technical assistance from the State. In order to redress the economic imbalance, the development contract signed between the State and New Caledonia for the period 2011-2015 should allow the development of public infrastructure, especially in the two most deprived provinces. With regard to "Cadres for the Future", the Prime Minister said that this programme should be continued since New Caledonians were underrepresented in senior State posts, especially with regard to sovereign functions. He also added that the recruitment procedures and the rules relating to promotion and mobility were clearly not appropriate for achieving that goal. In that regard, under the guidance of the Minister for Overseas Territories and the Minister responsible for the civil service, proposals would be submitted to ensure that significant, tangible progress was made. Given that the assessment of the Nouméa Accord carried out in 2011 had shown that the results of its implementation needed to be improved, especially in terms of redressing the economic balance, which had not been restored sufficiently, the High Commissioner had been asked to work pragmatically with all partners in 2013 to formulate public policy proposals in the spirit of the Accord. Lastly, with regard to the outcome of the Accord, the Prime Minister confirmed that the mandate of the mission established to consider the institutional future of New Caledonia had been extended.

VII. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

44. At its 11th meeting, on 22 June 2012, the Special Committee adopted a draft resolution introduced by the representative of Fiji also on behalf of Papua New Guinea (see A/AC.109/2012/L.12).

B. Special Political and Decolonization Committee (Fourth Committee)

45. At the 3rd meeting of the Fourth Committee, on 9 October 2012, the President of the Government of New Caledonia addressed the Committee, providing it with an update on the latest developments in the Territory. He said that, on the institutional side, the transfer of powers was proceeding on schedule: powers relating to education had been transferred in January 2012, conventions for the transfer of powers relating to maritime security and safety of life at sea had been signed in April 2012, and the Kanak Cultural Development Agency had been transferred in August 2012. He gave assurances that the timetable established by the Nouméa Accord would be fully respected and announced that civil defence powers would be transferred on 1 January 2014. On the economic and social front, the aim of redressing economic, as well as spatial and social, imbalances, in accordance with the Accord, remained a top priority for the Government. He also announced that the development plan for New Caledonia (Nouvelle-Calédonie 2025) would be submitted to Congress very soon and pointed out that the supplementary pension and basic pension had been introduced with effect from 1 January 2012. With regard to the external relations of New Caledonia, he informed the Committee that, following the signing of a convention with the French State allowing representatives of the Territory to be installed in French embassies in the Pacific, the first New Caledonian representative had been appointed in Wellington. The Government continued to diversify its bilateral cooperation. On multilateral cooperation, the Territory had welcomed a delegation of senior representatives from the Melanesian Spearhead Group, which was to be chaired by FLNKS, and the President had submitted a request for New Caledonia to be admitted as a member of that organization. The Territory had also participated in the Summit of the Pacific Islands Forum and reiterated its desire to accede to full membership of the organization. Concerning the Secretariat of the Pacific Community, the President indicated that the Government had decided to substantially increase its contributions to that organization's operational budget in 2012 and 2013, which would make it the fourth contributor behind Australia, the European Union and France, and ahead of the United States of America and New Zealand.

46. At the 6th meeting of the Fourth Committee, held on 12 October 2012, the representative of Papua New Guinea, speaking also on behalf of Fiji, noted that in the case of New Caledonia, the Melanesian Spearhead Group was seeking to further the implementation of the Nouméa Accord and work with the Kanak people and emphasized the need to establish special training programmes in many fields.

C. Action taken by the General Assembly

47. On 18 December 2012, the General Assembly adopted without a vote resolution 67/130, based on the report of the Special Committee transmitted to the Assembly (A/67/23) and its subsequent consideration by the Fourth Committee.

Annex

Tenth meeting of the Committee of Signatories of the Nouméa Accord

6 December 2012

Hôtel de Matignon, Paris

The tenth meeting of the Committee of Signatories of the Nouméa Accord, established by section 6.5 of the Accord, was held on Thursday, 6 December 2012, under the chairmanship of Jean-Marc Ayrault, Prime Minister.

The following delegates participated in the meeting in their capacity as signatories: Roch Wamytan accompanied by Alosio Sako, Paul Néaoutyine accompanied by André Nemia, Victor Tutugoro accompanied by Jean Creugnet, Pierre Frogier, Simon Loueckhote accompanied by Pascale Doniguian-Panchou, Bernard Deladrière, and Harold Martin accompanied by Sylvie Robineau.

The following members of parliament and representatives of New Caledonian institutions also participated: Sonia Lagarde, deputy, first constituency, Philippe Gomes, deputy, second constituency, Hilarion Vendegou, senator, Maurice Ponga, member of the European Parliament, Gérard Poadja, President of the Congress of New Caledonia, Cynthia Ligeard, President of the South Province, Neko Hnepeune, President of the Loyalty Islands Province and Luc Wema, President of the customary senate.

Participation at the tenth meeting of the Committee was extended to include the political groups represented in the Congress of New Caledonia. Pierre Bretegnier, Rusmaeni Sanmohamat, Caroline Machoro-Reignier, Sylvain Pabouty, Gerard Reignier, Gilbert Tyuienon, Jean-Pierre Djaiwe, Philippe Michel and Sutita Sio Lagadec attended the meeting in that capacity.

Also present were Victorin Lurel, Minister for Overseas Territories, Marc Vizy, advisor to the President of the Republic, Albert Dupuy, High Commissioner of the Republic in New Caledonia and Vincent Bouvier, Director General for Overseas Territories.

The meeting was opened by the Prime Minister. An introductory overview of all items on the agenda, given by the High Commissioner or Director General for Overseas Territories, was followed by the discussion and conclusions set forth in this statement of conclusions.

I. Transfers of powers

The timetable for transfers of powers in 2013 was recalled: 1 January 2013 for civil defence and domestic air traffic and 1 July 2013 for civil and commercial law. The last powers to be transferred were covered by article 27 of the Organic Law and concerned higher education, broadcasting, rules governing the administration of provinces, communes and their institutions, accounting and financial regulations for local authorities and their public institutions, and legal oversight of local authorities and their public institutions. Although this process was an integral part of the transfers laid down, a request from Congress must nonetheless be submitted before those powers could be transferred.

1. It emerged from the exchanges that all New Caledonian partners wanted greater support from the State in respect of the transfers, especially once powers had actually been transferred. This was particularly important given that the powers still to be transferred related to areas that were both essential and highly technical, that affected the organization of institutions and that would have an impact on the daily life of New Caledonians.

Following the exchanges, the Prime Minister announced that the State intended to extend genuine support to the New Caledonian authorities as they exercised their new responsibilities. To that end, he had decided to establish an interministerial standing committee responsible for providing support for the transfer of powers under way or completed. Headed by a chief of unit working directly with the Director General for Overseas Territories, the standing committee would comprise a representative appointed by each Ministry and would meet at least once every three months. It would be tasked with working with the New Caledonian authorities to:

- define the modalities for updating the branches of law already transferred,
- deal with the arrangements for and problems arising from the transfers under way in real time,
- make the necessary preparations for the transfers likely to be made, in particular those covered by article 27, so that Congress would have all the information at its disposal when it was called on to issue a decision in accordance with the Organic Law, with a view to presenting those transfers at the next meeting of the Committee of Signatories.

2. On 1 January 2013, powers relating to policing and security for domestic air traffic and for operators established in New Caledonia whose main activity was not international air transport would be transferred to New Caledonia. The Committee of Signatories welcomed the fact that New Caledonia and the French State would exercise their respective powers relating to civil aviation under a single department, the Department of Civil Aviation in New Caledonia, which had been established in May 2010 by an agreement concluded pursuant to article 56-1 of the Organic Law. The Department employs 230 officials, most of whom are New Caledonians, and has already proven to be a relevant body.

With a view to ensuring the successful transfer of those powers, the Committee of Signatories requested the standing committee responsible for providing support for the transfer of powers to review the draft support agreement, the measures proposed by the French State to enable New Caledonia to exercise its new regulatory powers and the other terms of the transfer, which would be established pursuant to the Organic Law.

3. Lastly, with regard to the powers relating to education already transferred, the Prime Minister confirmed the State's commitment to complete construction of two secondary schools in the communes of Mont-Dore and Pouembout. Preparatory work on those projects would continue in 2013.

The Prime Minister said that he would ensure that all the funds required for the construction of the schools were mobilized, after final approval of the project terms and conditions. To that end, a technical mission of experts would visit New Caledonia in early 2013.

The local partners of the Nouméa Accord recalled that they wished to see the two schools ready for an initial intake of students by the start of the 2016 school year.

II. Amendments to the Organic Law

The issue of special administrative policing powers for the President of the Government of New Caledonia relates both to powers already transferred (sea traffic) and others to be transferred in 2013 (air traffic and civil defence). In a decision adopted on 12 May 2011, Congress requested that such powers should be transferred to the President of the Government, alongside the general administrative policing powers exercised by the High Commissioner.

The Government undertook to present this amendment to article 134 of the Organic Law through the appropriate legislative channels as soon as possible and in any case during the first half of 2013.

Furthermore, the Committee was in favour of amending the Organic Law to allow New Caledonia to create local independent administrative authorities with all the relevant powers, or to create those authorities directly in the Organic Law, initially in the area of competition.

III. Progress in the three local steering committees

Steering committee to assess progress under the Nouméa Accord:

The assessment of progress under the Nouméa Accord carried out by the consulting firm CM International is regarded as an interim assessment, but the mission nonetheless identified a number of areas for improvement.

Following the discussion, which mainly addressed the new dimension of certain policies concerning New Caledonia as a whole, it was acknowledged that the realignment process was not complete but that there was a shared determination to reflect on ways to reconcile realignment among provinces, economic development, infrastructure levels and geographic distribution of the population. To that end, the Committee of Signatories decided to establish a working group (comprising representatives of the State, Government, Congress and provinces) within the steering committee. The working group's deliberations could usefully tie in with the discussions on fiscal reform and new funding sources. It was agreed that the outcome of the initial deliberations of this group would be presented in September 2013.

Steering committee on the institutional future of New Caledonia:

The mission responsible for considering the institutional future of New Caledonia presented its programme of work for 2013, which covered sovereign powers and the legal framework for the final phase of the Nouméa Accord, which would begin with the 2014 provincial elections. The programme was approved by the Committee of Signatories, which also requested the mission to create model simulations of the various major hypotheses for the institutional future of New Caledonia and map the exercise of sovereign powers according to the major options that could be envisaged depending on the outcome of the referendum held pursuant to the Accord. In addition, the mission would continue and deepen its deliberations

on New Caledonian citizenship and would submit proposals to the steering committee on ways to improve its concrete expression.

Industrial strategic committee and the nickel industry:

1. Koniambo project, Northern Plant (Koniambo Nickel SAS — KNS): the representative of the French State reaffirmed the State's support for the Koniambo project and said that in early 2013 it would authorize application of the last tax exemption period, subject to an expenditure audit conducted by Koniambo Nickel SAS. The mission led by Anne Duthilleul would endeavour to monitor the completion timeline, the launch of the plant's first production line within a few weeks, and the gradual increase in production volumes expected following the commissioning of the second production line in 2013.

2. Goro project, Southern Plant (Vale Nouvelle-Calédonie): the mission would continue to monitor this project until the completion of construction, scheduled for the end of 2012, and throughout the production set-up phase.

3. Strategic framework for nickel in New Caledonia: the Committee of Signatories welcomed the conclusion of the analysis and discussion on the development of an industrial strategic framework for nickel during the meeting of the industrial strategic committee held on 21 November 2012. Building on the political commitment to move forward together, as unanimously expressed at the last meeting of the industrial strategic committee, the Committee of Signatories decided to pursue the development of that framework within a smaller body such as the Conference of Presidents established in the context of the framework for the development of the mineral resources of New Caledonia, but extended to include the representative of the French State and the President of Congress, in order to work effectively in coming months with the support of Anne Duthilleul. This smaller body would also be responsible for reviewing the analysis and proposals on nickel formulated in the context of establishing the development plan for New Caledonia (Nouvelle-Calédonie 2025) to ensure consistency with the industrial strategic framework.

The State continued to pay close attention to developments relating to the capital of Société Le Nickel (SLN), the New Caledonian affiliate of the French State-owned company Eramet, and encouraged Eramet and Société Territoriale Calédonienne de Participation Industrielle (STCPI) to continue reviewing their shareholders' agreement in respect of SLN.

IV. Assessment of progress on identifying signs

The representative of the Institut d'émission d'outre-mer (IEOM) presented the identifying signs that would be used in the new range of banknotes, including an additional note with a denomination of 20,000 CFP francs. The Committee approved the plan presented as well as the date and arrangements for putting the new notes into circulation. The Minister pointed out that Congress needed to adopt a decision on the 20,000 CFP franc note as soon as possible.

The Committee noted with satisfaction that the commission for general legislation and regulations unanimously supported the proposal for discussions to be held on setting up a commission to consider the adoption of a flag expressing both the Kanak identity and the future to be shared by all. In the meantime, pending a solution, the two flags would have to coexist, as decided by Congress, though that

did not hinder the joint efforts of the New Caledonian partners to devise a flag in accordance with section 1.5 of the Nouméa Accord.

V. Development contracts

The Committee welcomed the outcome of the arbitration conducted in the context of the 2012 budget under the authority of Jean-Marc Ayrault, which had paved the way for the signing of the last two contracts for 2011-2015. The contract between the French State and New Caledonia had been signed on 23 November 2012 in the presence of Victorin Lurel while the contract between the French State and all local authorities was due to be signed by the end of the year. The Minister for Overseas Territories said that he would pay particular attention to ensuring compliance with the commitments made, including by State operators, and an annual review would be carried out at the end of the first six-month period in the context of budget preparations.

VI. Security and justice

1. The Committee noted the concern expressed at the meeting about security problems. The Minister emphasized that New Caledonia was not lacking in resources comparatively speaking. However, in the future, all authorities, especially the State authorities, should pay particular attention to any developments that could threaten the cohesion of New Caledonian society. For the same reason, the State would focus more on ensuring an adequate presence of public security forces, strengthening recruitment of New Caledonians and supporting initiatives by the Territory's institutions relating to prevention and social cohesion.

In particular, the Committee noted that the sense of insecurity in New Caledonia was exacerbated by social and customary conflicts, increased alcoholism, domestic violence and juvenile delinquency. The Government would therefore monitor the actions of public security forces and was willing to assist New Caledonia in taking steps to prevent crime, especially in relation to minors, alcoholism and domestic violence.

2. Ms. Imbert-Quaretta presented the recommendations made in her report submitted to the Minister of Justice on 22 November 2012, which were formulated following consultations with local actors. She recommended renovating the Camp-Est prison and building a local prison near Koné.

The Committee noted that the report recommended giving priority to maintaining the Camp-Est prison. It called for the urgent renovation work under way to be completed on time and for the overpopulation to be temporarily resolved by transferring prisoners to modular buildings so that the current buildings could be refurbished.

The Committee was pleased to note the recommendation that a local prison should be built near Koné as part of the prison project. The representative of the Ministry of Justice said that the Ministry was considering how to implement the recommendations made in the report. Further studies needed to be carried out in 2013 to determine the size of the Koné prison and ensure that it was fully in line with criminal policy.

The report prepared by Ms. Imbert-Quaretta would be sent to all local authorities. It was also announced that two judicial posts, including the post of Visiting Justice, would be created in January 2013.

VII. Cost of living

The representative of the State reminded the Committee that most provisions of the recently promulgated law regulating the overseas departments and territories were not applicable in New Caledonia, since the subjects covered were within the jurisdiction of New Caledonia. The New Caledonian partners were called on to transpose into local law those provisions that they considered relevant to the specific situation of New Caledonia and the State was willing to support the drafting and implementation of such local legislation.

The Committee noted the presentation made by the Minister for Overseas Territories on the regulatory measures which would soon be adopted to implement the provisions of the law on economic regulations governing the overseas departments and territories of France relating to the reduction of bank fees in New Caledonia.

VIII. Training

1. The Committee urged all stakeholders to implement the recommendations made in the assessment report on the "Cadres for the Future" programme and to focus in particular on working with companies and supporting trainees' entry into the job market, continuing efforts targeting the North Province and the Islands to redress the geographic imbalance and implementing a strategic shift designed to ensure training for excellence to fill the posts created as a result of the transfer of powers, as well as senior posts in the private sector.

The Minister for Overseas Territories said that steps would be taken to establish formal career paths tailored for individuals, which would include temporary secondments of local civil servants to the State administration, in New Caledonia and in the central administration.

The interministerial standing committee should establish objectives in order to expand the expertise of New Caledonian professionals, especially in areas related to the powers transferred.

2. With regard to the representation of New Caledonians, especially Kanaks, in performing the sovereign functions of the State civil service, the Committee noted the Prime Minister's stated intention of pursuing a proactive policy so that significant progress could be made during the current term. Concrete measures would be presented and implemented in the first half of 2013.

In that context, the Committee of Signatories urged the partners to the Nouméa Accord to step up efforts to raise awareness among Kanak and other New Caledonian students and promote their access to health studies, their success in competitive examinations and the best conditions for their return to New Caledonia. These efforts would be supported by a working group established in Paris.

3. With regard to the "Jobs for the future" scheme, the Committee noted that, although the status of New Caledonia meant that the scheme could be applied locally only if Congress adopted its own scheme to promote employment, the State

was willing to provide the New Caledonian authorities with engineering support and reach an agreement, as appropriate, on the criteria under which it could participate in the joint funding of jobs for the future, as established by New Caledonian legislation.

Lastly, the Committee of Signatories paid tribute to the New Caledonian regiment of the adapted military service for its action to support the integration of young people.

The Committee agreed to hold its next meeting no later than September 2013.